

# Locke Lord QuickStudy: Massachusetts Paid Family and Medical Leave Act – January 1 Implications

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Although Massachusetts employers presumably have been preparing for and complying with the Massachusetts Paid Family and Medical Leave Act (“MA PFMLA”) for more than a year, January 1 marks the date when Massachusetts employees will first benefit from the MA PFMLA’s provisions.

Starting on the first day of next year, employees will be eligible for an array of leave benefits under the MA PFMLA. Specifically, employees then will be allowed to take paid medical leave to manage their own serious health conditions; and will be allowed to take paid family leave to manage affairs while a family member is on active military duty overseas, care for a family member who is a military service member with a serious health condition, or bond with a child newly born, adopted, or placed in foster care. Starting on July 1, 2021, employees also will be eligible to take paid family leave to care for any family member with a serious health condition. The maximum weekly benefit for all types of leave under the MA PFMLA will be \$850.

The duration of the leave will depend on the type of leave taken:

- To manage one’s own serious health condition: 20 weeks.
- To manage affairs while a family member is on active military duty overseas: 12 weeks.
- To care for a military service member with a serious condition: 26 weeks.
- To bond with a child: 12 weeks.
- To care for a family member’s serious health condition: 12 weeks.

An employee will be able to take both family and medical leave in a “benefit year” but the aggregate total of leave may not exceed 26 weeks. “Benefit year” is defined as the 52 consecutive weeks beginning on the Sunday immediately preceding the day upon which an employee becomes eligible for leave.

“Serious health conditions” include pregnancy; chronic conditions (such as diabetes) that prevent an employee from working for certain periods of time and require going to the doctor more than twice a year; permanent or long-term conditions (such as cancer) requiring ongoing attention but will not necessarily need active treatment; and conditions requiring multiple treatments (such as dialysis or physical therapy). “Family member” includes a covered employee’s spouse, domestic partner, child, parent, parent of a spouse, grandchild, grandparent or sibling.

An important consideration for employers under the MA PFMLA is that they can opt-out of the law if they provide

benefits to their employees that are equal to or greater than the benefits provided by the MA PFMLA. Such employers, however, must apply for an exemption with the Department of Family and Medical Leave.

Lastly, although they provide similar benefits in certain situations, the MA PFMLA differs in important ways from the federal Family and Medical Leave Act (“FMLA”). Perhaps most importantly, the MA PFMLA provides for paid leave and employers are responsible for collecting and paying contributions on their behalf; in contrast, the FMLA provides for unpaid leave, so employers do not have a responsibility to collect or remit contributions. Other critical differences include the fact that Massachusetts employers of any size may be subject to the MA PFMLA, while the FMLA only applies to employers with 50 or more employees, and the fact that eligibility for MA PFMLA benefits is not dependent on how long an individual has worked for his or her current employer, while employees are not eligible for FMLA benefits until they have worked for their current employer for at least 12 months.

Massachusetts employers should be aware of these and other critical provisions of the MA PFMLA as January 1, 2021 approaches.

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